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101ST CONGRESS
2d Session

SENATE

REPORT
101-437

NATIONAL PRIORITIES REVIEW ACT

REPORT

OF THE

COMMITTEE ON THE BUDGET
UNITED STATES SENATE

TO ACCOMPANY

S. 2835

together with

MINORITY VIEWS

To amend the Balanced Budget and Emergency Deficit Control Act of 1985 to require the President and Congress to set, on an annual basis, the ratio of defense versus nondefense spending reductions required under sequestion

AUGUST 30, 1990.—Ordered to be printed

Filed under authority of the order of the Senate of August 2 (legislative day, July 10), 1990

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NATIONAL PRIORITIES REVIEW ACT

AUGUST 30, 1990.—Ordered to be printed

Filed under authority of the order of the Senate of August 2 (legislative day, July 10), 1990

Mr. SASSER, from the Committee on the Budget, submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany S. 2835]

The Committee on the Budget submits the following report, accompanying S. 2835.

[S. 2835, 101st Cong., 2d Sess.]

A BILL To amend the Balanced Budget and Emergency Deficit Control Act of 1985 to require the President and Congress to set, on an annual basis, the ratio of defense versus nondefense spending reductions required under sequestration

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Priorities Review Act".

SEC. 2. ANNUAL DETERMINATION OF DEFENSE AND NONDEFENSE SEQUESTRATION RATIO.

(a) NEW RATIO.—Section 251(a)(3)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

> "(B) The aggregate outlay reductions required by this paragraph shall be divided as provided in subsection (e) between—

"(i) accounts within the major functional category 050 (in this part referred to as outlays under 'defense programs'), in accordance with the rules prescribed in subsection (d), and

"(ii) other accounts of the Federal Government (in this part referred to as 'nondefense programs').".

(b) DETERMINATION OF NEW RATIOS.—Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by—

(1) redesignating subsection (e) as subsection (f); and

(2) inserting after subsection (d) the following:

"(e) DETERMINATION OF DEFENSE-NONDEFENSE RATIOS.—

"(1) IN GENERAL.—Not later than September 1 of each year, the Committee on the Budget of the Senate and the Committee on the Budget of the House of Representatives shall report a joint resolution to their respective houses which shall contain as its only provision a formula for the division of aggregate outlay reductions required by subsection (a)(3)(B) for the fiscal year beginning October 1.

"(2) PROCEDURES.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B), (C), and (D), in the Senate and the House the provisions of section 305 of the Congressional Budget Act of 1974, except for subsection (a)(3) and (4), for the consideration of concurrent resolutions on the budget and conference reports thereon shall also apply to the consideration of a joint resolution reported under paragraph (1) and conference reports thereon.

"(B) LIMIT ON DEBATE.—Debate in the Senate on any joint resolution reported pursuant to paragraph (1), and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to 10 hours. Debate on any amendment, motion, or appeal on any such joint resolution shall be limited to one hour.

"(C) LIMITATION ON AMENDMENTS.—It shall not be in order in the Senate or House of Representatives to consider any amendment to a joint resolution reported pursuant to paragraph (1) unless such amendment is limited to changing the formula for the division of appropriate outlay reductions required by subsection (a)(3)(B).

"(D) BILLS AND RESOLUTIONS RECEIVED FROM THE OTHER HOUSE.—Any bill or resolution received in one House from the other House, which is a companion to a joint resolution of the receiving House for the purposes of this subsection, shall be considered in the receiving House pursuant to the provisions of this subsection.

"(3) ENACTMENT BY OCTOBER 15.—A joint resolution introduced pursuant to paragraph (1) shall be enacted into law on or before October 15 of each calendar year and the allocation of outlay reductions provided in such joint resolution shall be used for calculating outlay reductions in any final sequester order issued pursuant to section 252(b) during such calendar year.

"(4) FAILURE TO ENACT AN ANNUAL ALLOCATION.—If in any calendar year the Congress fails to enact a joint resolution as required by this subsection or otherwise provide an allocation of reductions required by this subsection—

"(A) with respect to fiscal year 1991 and any consecutive calendar year thereafter, the allocation of outlay reductions for such year shall be one-half defense programs and one-half nondefense programs, and

"(B) with respect to any year following a year in which a joint resolution is enacted or an allocation of reductions required by this subsection is otherwise enacted, the allocation of outlay reductions provided in the most recent joint resolution enacted pursuant to this subsection or other legislation otherwise enacted shall be used for calculating outlay reductions in any final sequester order issued during such year.".

(c) WAIVER IN THE SENATE.—Section 271 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in subsection (b) by inserting after "Congressional Budget Act of 1974" the following: "and sections 251(e)(2)(B) and 251(e)(2)(C) of this Act"; and

(2) in subsection (c) by inserting after "Congressional Budget Act of 1974" the following: "and sections 251(e)(2)(B) and 251(e)(2)(C) of this Act.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fiscal years 1991, 1992, and 1993.

I. SUMMARY OF THE LEGISLATION

On the motion of Senator Frank R. Lautenberg, by a vote of 13 to 9, the Committee on the Budget ordered reported S. 2835, the "National Priorities Review Act", which amends the Balanced Budget and Emergency Deficit Control Act of 1985 [1] to require the President and Congress to set, on an annual basis, the ratio of defense versus non-defense spending reductions required under sequestration.

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[1] The Balanced Budget and Emergency Deficit Control Act of 1985, Pub. L. No. 99-177, tit. II, 99 Stat. 1037, 1038 (Dec. 12, 1985), amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, Pub. L. No. 100-119, tit. I, 101 Stat. 754 (Sept. 29, 1987), and further amended (codified as amended at 2 U.S.C. § 901-922 (1988) [hereinafter Gramm-Rudman-Hollings].

II. Need for Legislation

Sequestration was originally designed to threaten unacceptable, arbitrary across-the-board cuts in order to force the Congress and the Executive Branch to meet deficit targets. Recently, however, sequestration has been transformed from a mechanism to force negotiations into an accepted means of achieving deficit reduction.

In the fiscal year 1990 reconciliation bill, Congress and the President agreed on across-the-board cuts equivalent to a 130 day sequester. Since then, officials in the Administration and some members of Congress have on occasion suggested accepting even an unmodified sequester as a means of reducing the deficit.

Under the Gramm-Rudman-Hollings law, spending reductions under sequestration are set initially by taking the total amount of reductions needed to reach the deficit target, and allocating half to defense and half to non-defense programs, which are then largely secured by across-the-board cuts. These across-the-board cuts may differ as a percentage of the sequestrable defense or non-defense base.

The Committee believes that cuts under sequestration should not be automatically divided each year using the same formula of half from defense and half from non-defense. As conditions around the world fluctuate, domestic and defense needs change, and the size of defense and domestic budgets change over time, the Committee believes that the ratio of defense to non-defense cuts should also be subject to periodic review.

Once the Government accepts the idea of across the board cuts as a tool for actual reductions in spending, the Committee believes that the Congress has a responsibility to decide at least the allocation of those cuts between the defense and non-defense accounts of the Government.

This bill does not establish a set sequestration ratio. The legislation is entirely neutral between defense and non-defense programs. It simply creates a mechanism under which Congress and the President annually set that ratio by law in light of existing circumstances.

III. Legislative History

On July 10, 1990, S. 2835 was introduced and referred to the Senate Committees on Budget and Governmental Affairs, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have 30 days of continuous session to report or be discharged. On July 25, 1990, the Senate Budget Committee considered and marked up this legislation. S. 2835 was ordered to be reported out of the Committee on July 25, 1990.

IV. Section-by-Section Analysis

SHORT TITLE

Section 1 of the bill establishes the short title of the bill, the "National Priorities Review Act".

ANNUAL DETERMINATION OF DEFENSE AND NON-DEFENSE SEQUESTRATION RATIO

Subsections (a) and (b) of Section 2 establish a mechanism for determining the division between defense and non-defense programs of aggregate outlay reductions required under a sequestration order. This division is to be established annually by legislation that is considered in Congress pursuant to specified expedited procedures.

Under subsection (b), the Budget Committees in the House of Representatives and the Senate are required to report a joint resolution to their respective houses which contains as its only provision a formula for the division of aggregate outlay reductions between defense and non-defense programs for the fiscal year beginning October 1.

In general, the joint resolution establishing the division of reductions between defense and non-defense programs will be considered in the Senate and the House pursuant to the same procedures that apply to concurrent resolutions on the budget. However, unlike debate on budget resolutions, there is no provision for debate on economic goals and policies.

Debate on such a joint resolution is limited to 10 hours. This includes all debate on amendments and related motions and appeals. Debate on any amendment, motion or appeal is limited to one hour. In addition, the only amendments in order are those that are limited to changing the formula for division of appropriate outlay reductions between defense and non-defense programs. Pursuant to subsection (c) of this section, these procedural requirements may be waived only by the affirmative vote of three-fifths of the members duly chosen and sworn.

If in any calendar year the Congress fails to provide an allocation of reductions between defense and non-defense programs, a sequester order issued in that year shall allocate such reductions based on the most recently enacted legislation establishing this allocation. In fiscal year 1991, the allocation under such circumstances would be one-half defense programs and one-half non-defense programs.

Subsection (d) provides that the amendments made by this section shall apply to fiscal years 1991, 1992, and 1993.

V. Rollcall Vote in Committee

Senator Frank R. Lautenberg moved that the Committee report the National Priorities Review Act.

The Committee agreed to the Lautenberg motion to report the National Priorities Review Act by a vote of 13 Yeas to 9 Nays:

YEAS	NAYS
Mr. Sasser	Mr. Domenici*
Mr. Hollings	Mr. Armstrong
Mr. Johnston*	Mr. Boschwitz
Mr. Riegle*	Mr. Symms
Mr. Exon	Mr. Grassley
Mr. Lautenberg	Mr. Kasten
Mr. Simon	Mr. Nickles

Mr. Sanford
Mr. Wirth
Mr. Fowler*
Mr. Conrad
Mr. Dodd*
Mr. Robb
Mr. Rudman*
Mr. Bond

*This vote was made by proxy.

VI. Joint Referral Under the Standing Order

The Committee on the Budget has jurisdiction over the matter in the National Priorities Review Act by virtue of the standing order on the referral of budget-process legislation into which the Senate entered on August 4, 1977. Upon the reporting of the Act, the Presiding Officer will refer it to the Committee on Governmental Affairs pursuant to the standing order, with instructions that the Committee on Governmental Affairs shall have 30 days to report or be discharged.

VII. Regulatory Impact

Paragraph 11(b)(1) of rule XXVI of the Standing Rules of the Senate requires that each report accompanying a bill evaluate "the regulatory impact which would be incurred in carrying out the bill."[2] The enactment of this legislation would not have significant regulatory impact.

VIII. Cost Estimate

U.S. Congress,
Congressional Budget Office,
Washington, DC, August 3, 1990.

Hon. Jim Sasser,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed S. 2835, the National Priorities Review Act, as ordered reported by the Senate Committee on the Budget, July 25, 1990. We estimate that this bill would result in no costs or savings to the federal government, and in no costs to state and local governments.

S. 2835 would establish procedures for the Congress to set annually the rates of reductions that would apply to defense and nondefense activities in the event of a sequestration under the Balanced Budget and Emergency Deficit Control Act of 1985. Because the bill only would affect where reductions would occur, and not the total amount of reductions, it would not affect the size of the federal deficit.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is James Hearn, who can be reached at 226–2860.

Sincerely,

Robert D. Reischauer,
Director.

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[2] Standing Rules of the Senate Rule XXVI(11)(b)(1) (1990).

IX. MINORITY VIEWS OF MR. DOMENICI

I voted against Senator Lautenberg's legislation to provide a procedure to change the sequester formula in Gramm-Rudman-Hollings (GRH) from a 50–50 split between defense and non-defense programs.

I think the premise of the Lautenberg amendment is flawed. It attempts to make the sequester more acceptable by providing a procedure for Congress to develop an alternative sequester formula. GRH was intended to be an arbitrary stick to force Congress to develop a responsible budget plan to meet the maximum deficit targets. It was intended to be a fail-safe mechanism, not a budget.

This legislation is unnecessary since Congress envisioned the need to provide an alternative to the sequester in the original statute. Section 254 of GRH already provides an expedited procedure to consider alternatives should a sequester order go into effect.

We already spend an extraordinary amount of time debating and developing a budget. We cannot meet our existing deadlines to even produce budget resolutions, much less the appropriation and reconciliation bills to implement them. This bill would provide another cumbersome step in the budget process.

I believe the Lautenberg legislation is an attempt to get larger reductions from defense programs. This bill would break a carefully developed compromise in the original GRH law regarding the composition of the sequester formula. While defense programs only represent about one-fourth of the budget, the GRH sequester formula requires defense to contribute half of the savings. As we continue to reduce the defense budget, it will be asked to take larger and larger reductions as part of the Gramm-Rudman-Hollings sequester process.

If we are going to change the sequester formula, we should broaden the sequester base to provide more of an incentive to produce a responsible budget. With the numerous exemptions to GRH, less than 30 percent of the budget is subject to a sequester.

PETE V. DOMENICI.

X. Changes in Existing Law

Pursuant to paragraph 12 of rule XXVI of the Standing Rules of the Senate, this section displays changes to existing law made by the act. Existing law that the act would strike appears in black brackets, new material appears in italic type, and existing law to which the act makes no change appears in roman type.

Balanced Budget and Emergency Deficit Control Act of 1985

Section 251(a)(3)(B)

[(B) Subject to the exemptions, exceptions, limitations, special rules, and definitions set forth in this section and in section 255, 256, and 257, one-half of the aggregate required outlay reductions shall be made under accounts within major functional category 050 (in this part referred to as outlays under "defense programs"), and shall be made in accordance with the rules prescribed in subsection (d), and the other half of the aggregate required outlay reductions shall be made under other accounts of the Federal Government (in this part referred to as "non-defense programs").]

(B) The aggregate outlays reductions required by this paragraph shall be divided as provided in subsection (e) between—

(i) accounts within the major functional category 050 (in this part referred to as outlays under "defense programs"), in accordance with the rules prescribed in subsection (d), and

(ii) other accounts of the Federal Government (in this part referred to as "non-defense programs").

Section 251

(e) Determination of Defense/Non-Defense Ratios.—

(1) In general.—Not later than September 1 of each year, the Committee on the Budget of the Senate and the Committee on the Budget of the House of Representatives shall report a joint resolution to their respective houses which shall contain as its only provision a formula for the division of aggregate outlay reductions required by subsection (a)(3)(B) for the fiscal year beginning October 1.

(2) Procedures.—

(A) In general.—Except as provided in subparagraphs (B), (C) and (D), in the Senate and the House the provisions of section 305 of the Congressional Budget Act of 1974, except for subsection (a) (3) and (4), for the consideration of concurrent resolutions on the budget and conference reports thereon shall also apply to the consideration of a joint resolution reported under paragraph (1) and conference reports thereon.

(B) LIMIT ON DEBATE.—Debate in the Senate on any joint resolution reported pursuant to paragraph (1), and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to 10 hours. Debate on any amendment, motion, or appeal on any such joint resolution shall be limited to one hour.

(C) LIMITATION ON AMENDMENTS.—It shall not be in order in the Senate or House of Representatives to consider any amendment to a joint resolution reported pursuant to paragraph (1) unless such amendment is limited to changing the formula for the division of appropriate outlay reductions required by subsection (a)(3)(B).

(D) BILLS AND RESOLUTIONS RECEIVED FROM THE OTHER HOUSE.—Any bill or resolution received in one House from the other House, which is a companion to a joint resolution of the receiving House for the purposes of this subsection, shall be considered in the receiving House pursuant to the provisions of this subsection.

(3) ENACTMENT BY OCTOBER 15.—A joint resolution introduced pursuant to paragraph (1) shall be enacted into law on or before October 15 of each calendar year and the allocation of outlay reductions provided in such joint resolution shall be used for calculating outlay reductions in any final sequester order issued pursuant to section 252(b) during such calendar year.

(4) FAILURE TO ENACT AN ANNUAL ALLOCATION.—If in any calendar year the Congress fails to enact a joint resolution as required by this subsection or otherwise provide an allocation of reductions required by this subsection—

(A) with respect to fiscal year 1991 and any consecutive calendar year thereafter, the allocation of outlay reductions for such year shall be one-half defense programs and one-half non-defense programs, and

(B) with respect to any year following a year in which a joint resolution is enacted or an allocation of reductions required by this subsection is otherwise enacted, the allocation of outlay reductions provided in the most recent joint resolution enacted pursuant to this subsection or other legislation otherwise enacted shall be used for calculating outlay reductions in any final sequester order issued during such year.

[(e)] *(f)* EXCEPTION.—The preceding provisions of this section shall not apply if a declaration of war by the Congress is in effect.

Section 271

(b) OTHER WAIVERS AND SUSPENSIONS IN THE SENATE.—Sections 301(i), 302(c), 302(f), 304(b), 310(d), 310(g), and 311(a) of the Congressional Budget Act of 1974, *and sections 251(e)(2)(B) and 251(e)(2)(C) of this Act,* may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn. This subsection shall not apply to any joint resolution reported of discharged pursuant to section 254(a) of this joint resolution.

(c) APPEALS OF RULINGS.—An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under section 301(i), 302(c), 302(f), 304(b), 306, 310(d), 310(g), or 311(a) of the Congressional Budget Act of 1974 *and sections 251(e)(2)(B) and 251(e)(2)(C) of the Act.*

○